

Susanne Guyer  
Executive Director  
Federal Regulatory Policy Issues

**NYNEX**

October 9, 1996

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Federal Communications Commission  
Office of Secretary

**Ex Parte**

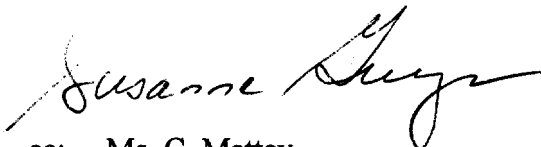
Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, NW  
Washington, DC 20554

Re: **CC Docket No. 96-149; Implementation of Non-Accounting  
Safeguards**

Dear Mr. Caton:

Yesterday, Mr. C. Bennett, Mr. J. Laporta, Ms. M. Haratunian and I, representing NYNEX, met with Ms. C. Matthey, Ms. R. Karmarkar, Ms. C. Leanza, Ms. L. Kinney, Ms. B. Scinto and Ms. S. Whitesell of the Policy Division of the Common Carrier Bureau. The purpose of the meeting was to discuss the joint marketing and separate affiliate provisions of Section 272 of the Telecommunications Act of 1996. The NYNEX representatives used the attached charts during the discussion.

Sincerely,



cc: Ms. C. Matthey  
Ms. R. Karmarkar  
Ms. C. Leanza  
Ms. L. Kinney  
Ms. B. Scinto  
Ms. S. Whitesell

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# CC Docket 96-149

## Non-Accounting Safeguards

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# Non-Accounting Safeguards

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- Introduction
- Joint Marketing
- Equal Access Obligations
- Shared Services
- CI III/ONA

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# Introduction

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- Act creates competition in local markets and increases competition in long distance market.
- Congress recognized the importance of one-stop shopping and packaged services offered in an efficient and consumer-focused manner.

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# The Market Place

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- Strategic players are positioning themselves for one-stop shopping:
  - MCI One
  - AT&T.ALL

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# An Effective Competitor

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- To be effective, a marketplace competitor must be able to offer one-stop shopping and efficiently use its resources.

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# Joint Marketing

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- The Act clearly demonstrates that Congress intended for the BOCs and their affiliates to engage in joint marketing on an exclusive basis:
  - A BOC may market/sell the long distance services of its affiliate when authorized to sell long distance (Section 272(g)(2)&(3)).
  - A BOC long distance affiliate may market/sell services obtained in a non-discriminatory manner from the BOC (Section 272(g)(1)&(3))

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# Joint Marketing (cont'd)

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- For joint marketing for the BOC to have any real substance, it must:
  - Include at a minimum the ability, on an exclusive basis, for the BOC to use its sales channels to act as a sales agent for and make customer referrals to its InterLATA affiliate.
  - BOC will not provide other marketing activities, such as product development, product management, market management, channel management, market research, or pricing on behalf of its affiliates.

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# Joint Marketing (cont'd)

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- A BOC's and its long distance affiliate's ability to jointly market each others' services does not conflict with:
  - The "structural and transactional requirements" and "fulfilment of certain requests" sections of the Act (Sections 272(b) or (e)).
    - All transactions are subject to audit and are at an arm's length.
    - All services/facilities are purchased by the affiliate from the BOC and through tariff or under a publicly available contract.
    - BOC joint marketing sales/agency/referral arrangements for the affiliate would be in writing and available for public inspection.
    - BOC costs are reimbursed as determined in Docket 96-150.

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# Joint Marketing (cont'd)

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- A BOC's and its long distance affiliate's ability to jointly market each others' services does not conflict with:
  - The CPNI Rules (Section 222)
    - NYNEX will comply with the CPNI Rules as ultimately defined for inbound and outbound activities such as by obtaining the necessary customer consent.

# Joint Marketing (cont'd)

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- Act permits a BOC InterLATA affiliate to purchase IntraLATA exchange services in the same manner as any other IXC.

# MFJ Equal Access Requirement

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- Existing equal access obligations deal virtually exclusively with technical/interconnection issues and not joint marketing.
- Congress clearly contemplated that FCC regulation adopted to implement the Act would modify the pre-existing equal access requirements and should take precedence over those requirements.
- FCC rules should give substantive meaning to statutory grant of joint marketing authority.
- As part of the exchange service provisioning process on inbound calls, NYNEX will, for a reasonable period of time, after receiving Section 271 authority, advise customers that they have long distance options.

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# Shared Services: The Provision of Traditional Holding Company Functions

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- Section 272(b) addresses the relationship between a BOC and its separate long distance affiliate and assumes the existence of a holding company.
- The consolidation of company functions/resources provides economic benefits to consumers in the way of reduced costs.

# Shared Services: The Provision of Traditional Holding Company Functions

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- The Act provides sufficient protections to provide corporate governance, support and administrative functions through a holding company or service subsidiary.
  - Obtaining services from the same company does not create shared employees.
  - All transactions between a BOC and its long distance affiliate will be at arms length and subject to affiliate transaction accounting rules.
  - A BOC and its long distance affiliate would keep separate books.

# Shared Services: The Provision of Traditional Holding Company Functions

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*The following are the minimum functions that should be permitted to be performed by a holding company or service subsidiary on behalf of its affiliates including a BOC and its long distance affiliate (as defined in NYNEX's comments). These functions do not involve a BOC's "network capabilities" or "local exchange operations" :*

- Chairman and Chief Executive Officer
- Chief Financial Officer
- General Counsel
- Strategic Planning
- External Affairs
- Chief Information Officer
- Human Resources
- Real Estate Operations/Management
- Logistics Management
- Technology Analysis

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# Application of CI-II, CI-III and ONA

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- Implementation of the Act will result in a fundamental unbundling of a BOC's network.
- Therefore, CI-II, CI-III and ONA Rules should be eliminated once checklist is met.
  - ESP Industry is thriving.
  - Competition will give non-carrier ESPs leverage and choice.



# Application of CI-II, CI-III and ONA

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- There is no basis for applying CI-II, CI-III and ONA Rules to a BOC long distance affiliate.
  - No control of any underlying, local or interexchange communications networks.